

STATE OF SOUTH CAROLINA)
) BEFORE THE STATE ETHICS COMMISSION
 COUNTY OF RICHLAND)
)
 IN THE MATTER OF:)
 COMPLAINT C2011-070)
)
 State Ethics Commission,)
 Complainant;)
)
 vs.) **DECISION AND ORDER**
)
 Elliott Summey,)
 Respondent.)
 _____)

RECEIVED
 2012 MAY -2 PM 3:51
 STATE ETHICS
 COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the State Ethics Commission on March 31, 2011. On May 18, 2011, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2010), the State Ethics Commission reviewed the above-captioned complaint charging Respondent, Elliott Summey, with two violations of Section 8-13-1348, and probable cause was found to warrant an evidentiary hearing.

Present at the Hearing on March 21, 2012 were Commission Members Edward E. Duryea, Chair, George Carlton Manley and JB Holeman. Respondent was present and represented by Michael Timbes. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charges were considered:

COUNT ONE
CONVERSION OF CAMPAIGN FUNDS TO PERSONAL USE
SECTION 8-13-1348(A), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Elliott Summey, Charleston County Councilman, did in Charleston County in June 2008, convert to personal use campaign contributions when he made a donation of campaign funds to Charleston Farms in the amount of \$100.00.

COUNT TWO

**CONVERSION OF CAMPAIGN FUNDS TO PERSONAL USE
SECTION 8-13-1348(A), S.C. CODE ANN., 1976, AS AMENDED**

That the Respondent, Elliott Summey, Charleston County Councilman, did in Charleston County in June 2008, convert to personal use campaign contributions when he made a donation of campaign funds to Charleston Farms in the amount of \$75.00.

STATEMENT OF FACTS

1. The Respondent, Elliott Summey, is a member of Charleston County Council and files quarterly campaign disclosure forms (CD).

2. Commission Investigator Dan Choate testified that during the course of his investigation he determined that on January 28, 2011 the Commission's Executive Director notified Respondent that the two expenditures to Charleston Farms may be personal. Respondent was advised to file an amended CD, if appropriate. By certified letter dated February 22, 2011, Respondent was reminded that an amended CD had not been received. This letter was returned with a notation "unable to forward". The letter was re-mailed to a listed address for Respondent found online.

3. Respondent testified that he never received any correspondence from the Commission and only became aware of the complaint when a Charleston County employee placed mail that had been dropped off at the county building in Respondent's councilman box. Respondent testified that he did not believe the campaign expenditures were personal since he would not have donated to the civic club except during the campaign and that the donation allowed him to campaign at the event.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Commission concludes, as a matter of law:

1. The Respondent, Elliott Summey, is a public official as defined by Section 8-13-100(27).

2. The State Ethics Commission has personal and subject matter jurisdiction

3. Section 8-13-1348 (A) states:

No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual's duties as a holder of elective office.

DECISION

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the State Ethics Commission has determined based upon a preponderance of evidence that Respondent Elliott Summey is not in violation of Section 8-13-1348 and this matter is dismissed.

IT IS SO ORDERED THIS 29th DAY OF April, 2012.

STATE ETHICS COMMISSION


EDWARD E. DURYEA
HEARING CHAIR

COLUMBIA, SOUTH CAROLINA